

AMENDED IN SENATE JUNE 9, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2289

Introduced by Assembly Member Daly

February 21, 2014

An act to amend Sections 25620, 31116, and 31121 of, and to add Section 31158 to, the Corporations Code, and to amend Sections 12201, 17201, 22101, and 23005 of the Financial Code, relating to business.

LEGISLATIVE COUNSEL’S DIGEST

AB 2289, as amended, Daly. ~~Electronic records and signatures.~~
Business filings.

(1) The Corporate Securities Law of 1968 authorizes the Commissioner of Business Oversight to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

This bill would provide additional examples of what meets the definition of an “electronic record.”

(2) The Franchise Investment Law generally provides for the regulation of the offer and sale of franchises by the Commissioner of Business Oversight. The law specifically provides that the registration of the offer of franchises automatically becomes effective at noon on the 15th business day after the filing of the application for registration or the last amendment, except as specified.

This bill would instead provide that the offer automatically becomes effective on the 30th day after the filing of a complete application, ~~and defines the term “complete application” for this purpose. This bill would similarly extend the time for a renewal of an offer, as specified. specified, and define terms for these purposes.~~ This bill would authorize

the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(3) The Check Sellers, Bill Payers and Proraters Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license to engage in business under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(4) The Escrow Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as an escrow agent under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(5) The California Finance Lenders Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as a finance lender or broker under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(6) The California Deferred Deposit Transaction Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license to engage in the businesses of offering, making, or arranging a deferred deposit transaction, as specified.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25620 of the Corporations Code is
2 amended to read:
3 25620. (a) Notwithstanding any other law, the commissioner
4 may by rule or order prescribe circumstances under which to accept
5 electronic records or electronic signatures. This section shall not

1 require the commissioner to accept electronic records or electronic
2 signatures.

3 (b) For purposes of this section, the following terms have the
4 following meanings:

5 (1) “Electronic record” means a record created, generated, sent,
6 communicated, received, or stored by electronic ~~means, and~~
7 ~~includes a record transmitted by means of facsimile machine or~~
8 ~~other telephone transceiving equipment.~~ *means.* “Electronic record”
9 also includes, but is not limited to, all of the following:

10 (A) An application, amendment, supplement, and exhibit, filed
11 for any qualification, registration, order, permit, certificate, license,
12 consent, or other ~~authority, including, but not limited to,~~
13 ~~correspondence between the parties and the commissioner directly~~
14 ~~relating to the record.~~ *authority.*

15 (B) A financial statement, reports, ~~advertising, and~~
16 ~~correspondence between a party and the commissioner directly~~
17 ~~relating to the record.~~ *or advertising.*

18 (C) An order, permit, certificate, license, consent, or other
19 authority.

20 (D) A notice of public hearing, accusation, and statement of
21 issues in connection with any application, qualification,
22 registration, order, permit, certificate, license, consent, or other
23 authority.

24 (E) A proposed decision of a hearing officer and a decision of
25 the commissioner.

26 (F) The transcripts of a ~~hearing and correspondence between a~~
27 ~~party and the commissioner directly relating to the record.~~ *hearing.*

28 (G) A release, newsletter, interpretive opinion, determination,
29 ~~specific ruling, and the correspondence relating to the record.~~ *or*
30 *specific ruling.*

31 (H) *Correspondence between a party and the commissioner*
32 *directly relating to any document listed in subparagraphs (A) to*
33 *(G), inclusive.*

34 (2) “Electronic signature” means an electronic sound, symbol,
35 or process attached to or logically associated with an electronic
36 record and executed or adopted by a person with the intent to sign
37 the electronic record.

38 (c) The Legislature finds and declares that the Department of
39 Business Oversight has continuously implemented methods to ~~file~~
40 *accept* records *filed* electronically, including broker-dealer and

1 investment adviser applications, and is encouraged to continue to
2 expand its use of electronic filings to the extent feasible, as budget,
3 resources, and equipment are made available to accomplish that
4 goal.

5 SEC. 2. Section 31116 of the Corporations Code is amended
6 to read:

7 31116. (a) Except as provided in subdivision (b), if no stop
8 order under Section 31115 is in effect under this law, registration
9 of the offer of franchises automatically becomes effective at 12
10 o'clock noon, California time, of the 30th business day after the
11 filing of a complete application for registration or the last
12 preeffective amendment thereto, or at such earlier time as the
13 commissioner determines.

14 (b) With respect to any application for registration or the last
15 amendment thereto filed between January 1, 1971, and March 15,
16 1971, if no stop order under Section 31115 is in effect under this
17 law, registration becomes effective on April 15, 1971; with respect
18 to any application filed after March 15, 1971 and before May 10,
19 1971, if no stop order under Section 31115 is in effect under this
20 law, registration becomes effective on June 1, 1971, or the 15th
21 business day after the filing, whichever is the later, or at such
22 earlier time as the commissioner determines.

23 (c) For purposes of this section, "complete application" means
24 an application that contains the appropriate filing fee, Uniform
25 Franchise Disclosure Document, and all additional exhibits,
26 including financial statements in conformity with ~~regulation~~
27 *regulations* of the commissioner. "*Preeffective amendment*" means
28 *an amendment to an application that is filed before the effective*
29 *date of the registration of the sale of franchises.*

30 SEC. 3. Section 31121 of the Corporations Code is amended
31 to read:

32 31121. (a) The registration may be renewed for additional
33 periods of one year each, unless the commissioner by rule or order
34 specifies a different period, by submitting to the commissioner a
35 renewal application before the expiration of the registration. If no
36 stop order or other order under Section 31115 is in effect under
37 this law, registration of the offer of the franchises automatically
38 becomes renewed effective at 12 o'clock noon, California time, of
39 the 30th business day after the filing of a complete application for

1 registration or the last preeffective amendment or at such earlier
2 time as the commissioner determines.

3 (b) For purposes of this section, “complete application” means
4 an application that contains the appropriate filing fee, Uniform
5 Franchise Disclosure Document, and all additional exhibits,
6 including financial statements in conformity with ~~regulation~~
7 *regulations* of the commissioner. “Preeffective amendment” means
8 *an amendment to an application that is filed before the effective*
9 *date of the registration of the sale of franchises.*

10 SEC. 4. Section 31158 is added to the Corporations Code, to
11 read:

12 31158. (a) Notwithstanding any other law, the commissioner
13 may by rule or order prescribe circumstances under which to accept
14 electronic records or electronic signatures. This section shall not
15 require the commissioner to accept electronic records or electronic
16 signatures.

17 (b) For purposes of this section, the following terms have the
18 following meanings:

19 (1) “Electronic record” means an initial registration application,
20 registration renewal statement, preeffective amendment,
21 posteffective amendment, or material modification and any other
22 record created, generated, sent, communicated, received, or stored
23 by electronic means, ~~and includes a record transmitted by means~~
24 ~~of facsimile machine or other telephone transeiving equipment.~~
25 *means.* “Electronic record” also includes, but is not limited to, all
26 of the following:

27 (A) An application, amendment, supplement, and exhibit, filed
28 for any ~~qualification, registration, order, permit, certificate, license,~~
29 ~~consent, or other authority, including, but not limited to,~~
30 ~~correspondence between the parties and the commissioner directly~~
31 ~~relating to the record.~~ *authority.*

32 (B) A financial statement, reports, ~~advertising, and~~
33 ~~correspondence between a party and the commissioner directly~~
34 ~~relating to the record.~~ *or advertising.*

35 (C) An order, ~~permit, certificate, license, consent, or other~~
36 ~~authority.~~

37 (D) A notice of public hearing, accusation, and statement of
38 issues in connection with any application, ~~qualification,~~
39 ~~registration, order, permit, certificate, license, consent, or other~~
40 ~~authority.~~

1 (E) A proposed decision of a hearing officer and a decision of
2 the commissioner.

3 (F) ~~The transcripts of a hearing and correspondence between a~~
4 ~~party and the commissioner directly relating to the record.~~ *hearing.*

5 (G) A release, newsletter, interpretive opinion, determination,
6 ~~specific ruling, and correspondence relating to the record.~~ *or*
7 *specific ruling.*

8 (H) *Correspondence between a party and the commissioner*
9 *directly relating to any document listed in subparagraphs (A) to*
10 *(G), inclusive.*

11 (2) “Electronic signature” means an electronic sound, symbol,
12 or process attached to or logically associated with an electronic
13 record and executed or adopted by a person with the intent to sign
14 the electronic record.

15 (c) The Legislature finds and declares that the Department of
16 Business Oversight has continuously implemented methods to ~~file~~
17 *accept* records *filed* electronically, including broker-dealer and
18 investment adviser applications, and is encouraged to continue to
19 expand its use of electronic filings to the extent feasible, as budget,
20 resources, and equipment are made available to accomplish that
21 goal.

22 SEC. 5. Section 12201 of the Financial Code is amended to
23 read:

24 12201. (a) An application for a license shall be in writing,
25 under oath, and in a form prescribed by the commissioner and shall
26 contain the name, and the address both of the residence and place
27 of business, of the applicant and if the applicant is a partnership
28 or association, of every member thereof, and if a corporation, of
29 every officer and director thereof.

30 (b) Notwithstanding any other law, the commissioner may by
31 rule or order prescribe circumstances under which to accept
32 electronic records or electronic signatures. This section shall not
33 require the commissioner to accept electronic records or electronic
34 signatures.

35 (c) For purposes of this section, the following terms have the
36 following meanings:

37 (1) “Electronic record” means an initial ~~registration license~~
38 ~~application, registration renewal statement, preeffective~~
39 ~~amendment, posteffective amendment,~~ or material modification
40 *of that license application*, and any other record created, generated,

1 sent, communicated, received, or stored by electronic means, and
2 ~~includes a record transmitted by means of facsimile machine or~~
3 ~~other telephone transceiving equipment.~~ *means.* “Electronic record”
4 also includes, but *is* not limited to, all of the following:

5 (A) An application, amendment, supplement, and exhibit, filed
6 for any ~~qualification, registration, order, permit, certificate, license,~~
7 ~~consent, or other authority, including, but not limited to,~~
8 ~~correspondence between the parties and the commissioner directly~~
9 ~~relating to the record.~~ *authority.*

10 (B) A financial statement, reports, ~~advertising, and~~
11 ~~correspondence between a party and the commissioner directly~~
12 ~~relating to the record.~~ *or advertising.*

13 (C) An order, ~~permit, certificate, license, consent, or other~~
14 ~~authority.~~

15 (D) A notice of public hearing, accusation, and statement of
16 issues in connection with any application, ~~qualification,~~
17 ~~registration, order, permit, certificate, license, consent, or other~~
18 ~~authority.~~

19 (E) A proposed decision of a hearing officer and a decision of
20 the commissioner.

21 (F) The transcripts of a ~~hearing and correspondence between a~~
22 ~~party and the commissioner directly relating to the record.~~ *hearing.*

23 (G) A release, newsletter, interpretive opinion, determination,
24 ~~specific ruling, and correspondence relating to the record.~~ *or*
25 *specific ruling.*

26 (H) *Correspondence between a party and the commissioner*
27 *directly relating to any document listed in subparagraphs (A) to*
28 *(G), inclusive.*

29 (2) “Electronic signature” means an electronic sound, symbol,
30 or process attached to or logically associated with an electronic
31 record and executed or adopted by a person with the intent to sign
32 the electronic record.

33 (d) The Legislature finds and declares that the Department of
34 Business Oversight has continuously implemented methods to file
35 *accept* records ~~electronically, including broker-dealer and~~
36 ~~investment adviser applications, filed electronically,~~ and is
37 encouraged to continue to expand its use of electronic filings to
38 the extent feasible, as budget, resources, and equipment are made
39 available to accomplish that goal.

SEC. 6. Section 17201 of the Financial Code is amended to read:

17201. (a) An application for a license as an escrow agent shall be in writing and in such form as is prescribed by the commissioner. The application shall be verified by the oath of the applicant.

(b) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(c) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means an initial ~~registration license application, registration renewal statement, preeffective amendment, posteffective amendment,~~ or material modification *of that license application*, and any other record created, generated, sent, communicated, received, or stored by electronic means, ~~and includes a record transmitted by means of facsimile machine or other telephone transceiving equipment.~~ *means.* “Electronic records” also includes, but *is* not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any ~~qualification, registration, order, permit, certificate, license, consent, or other authority, including, but not limited to,~~ correspondence between the parties and the commissioner directly relating to the record. *authority.*

(B) A financial statement, reports, ~~advertising, and correspondence between a party and the commissioner directly relating to the record.~~ *or advertising.*

(C) An order, ~~permit, certificate,~~ license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, ~~qualification, registration, order, permit, certificate, license, consent, or other authority.~~

(E) A proposed decision of a hearing ~~officer and a decision of the commissioner.~~ *officer.*

(F) The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record.

1 (G) A release, newsletter, interpretive opinion, determination,
2 ~~specific ruling, and the correspondence relating to the record. or~~
3 ~~specific ruling.~~

4 (H) *Correspondence between a party and the commissioner*
5 *directly relating to any document listed in subparagraphs (A) to*
6 *(G), inclusive.*

7 (2) “Electronic signature” means an electronic sound, symbol,
8 or process attached to or logically associated with an electronic
9 record and executed or adopted by a person with the intent to sign
10 the electronic record.

11 (d) The Legislature finds and declares that the Department of
12 Business Oversight has continuously implemented methods to ~~file~~
13 ~~accept~~ records ~~electronically, including broker-dealer and~~
14 ~~investment adviser applications, filed electronically,~~ and is
15 encouraged to continue to expand its use of electronic filings to
16 the extent feasible, as budget, resources, and equipment are made
17 available to accomplish that goal.

18 SEC. 7. Section 22101 of the Financial Code is amended to
19 read:

20 22101. (a) An application for a license as a finance lender or
21 broker under this division shall be in the form and contain the
22 information that the commissioner may by rule or order require
23 and shall be filed upon payment of the fee specified in Section
24 22103.

25 (b) Notwithstanding any other law, an applicant who does not
26 currently hold a license as a finance lender or broker under this
27 division shall furnish, with his or her application, a full set of
28 fingerprints and related information for purposes of the
29 commissioner conducting a criminal history record check. The
30 commissioner shall obtain and receive criminal history information
31 from the Department of Justice and the Federal Bureau of
32 Investigation pursuant to Section 22101.5.

33 (c) This section shall not be construed to prevent a licensee from
34 engaging in the business of a finance lender through a subsidiary
35 corporation if the subsidiary corporation is licensed pursuant to
36 this division.

37 (d) For purposes of this section, “subsidiary corporation” means
38 a corporation that is wholly owned by a licensee.

39 (e) A new application shall not be required for a change in the
40 address of an existing location previously licensed under this

1 division. However, the licensee shall comply with the requirements
2 of Section 22153.

3 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
4 commissioner may by rule require an application to be made
5 through the Nationwide Mortgage Licensing System and Registry,
6 and may require fees, fingerprints, financial statements, supporting
7 documents, changes of address, and any other information, and
8 amendments or modifications thereto, to be submitted in the same
9 manner.

10 (g) Notwithstanding any other law, the commissioner may by
11 rule or order prescribe circumstances under which to accept
12 electronic records or electronic signatures. This section shall not
13 require the commissioner to accept electronic records or electronic
14 signatures.

15 (h) For purposes of this section, the following terms have the
16 following meanings:

17 (1) “Electronic record” means an initial ~~registration license~~
18 ~~application, registration renewal statement, preeffective~~
19 ~~amendment, posteffective amendment,~~ or material modification
20 ~~of that license application,~~ and any other record created, generated,
21 sent, communicated, received, or stored by electronic means, and
22 ~~includes a record transmitted by means of facsimile machine or~~
23 ~~other telephone transeiving equipment.~~ *means.* “Electronic
24 records” also includes, but *is* not limited to, all of the following:

25 (A) An application, amendment, supplement, and exhibit, filed
26 for any ~~qualification, registration, order, permit, certificate, license,~~
27 ~~consent, or other authority, including, but not limited to,~~
28 ~~correspondence between the parties and the commissioner directly~~
29 ~~relating to the record.~~ *authority.*

30 (B) A financial statement, reports, ~~advertising, and~~
31 ~~correspondence between a party and the commissioner directly~~
32 ~~relating to the record.~~ *or advertising.*

33 (C) An order, ~~permit, certificate,~~ license, consent, or other
34 authority.

35 (D) A notice of public hearing, accusation, and statement of
36 issues in connection with any application, ~~qualification,~~
37 ~~registration, order, permit, certificate,~~ license, consent, or other
38 authority.

39 (E) A proposed decision of a hearing officer and a decision of
40 the commissioner.

1 (F) The transcripts of a hearing and correspondence between a
2 party and the commissioner directly relating to the record.

3 (G) A release, newsletter, interpretive opinion, determination,
4 ~~specific ruling, and the correspondence relating to the record. or~~
5 ~~specific ruling.~~

6 (H) *Correspondence between a party and the commissioner*
7 *directly relating to any document listed in subparagraphs (A) to*
8 *(G), inclusive.*

9 (2) “Electronic signature” means an electronic sound, symbol,
10 or process attached to or logically associated with an electronic
11 record and executed or adopted by a person with the intent to sign
12 the electronic record.

13 (i) The Legislature finds and declares that the Department of
14 Business Oversight has continuously implemented methods to ~~file~~
15 ~~accept~~ records ~~electronically, including broker-dealer and~~
16 ~~investment adviser applications, filed electronically,~~ and is
17 encouraged to continue to expand its use of electronic filings to
18 the extent feasible, as budget, resources, and equipment are made
19 available to accomplish that goal.

20 SEC. 8. Section 23005 of the Financial Code is amended to
21 read:

22 23005. (a) A person shall not offer, originate, or make a
23 deferred deposit transaction, arrange a deferred deposit transaction
24 for a deferred deposit originator, act as an agent for a deferred
25 deposit originator, or assist a deferred deposit originator in the
26 origination of a deferred deposit transaction without first obtaining
27 a license from the commissioner and complying with the provisions
28 of this division. The requirements of this subdivision shall not
29 apply to persons or entities that are excluded from the definition
30 of “licensee” as set forth in Section 23001. This division shall not
31 be construed to require the commissioner to create separate classes
32 of licenses.

33 (b) An application for a license under this division shall be in
34 the form and contain the information that the commissioner may
35 by rule require and shall be filed upon payment of the fee specified
36 in Section 23006.

37 (c) A licensee with one or more licensed locations seeking an
38 additional location license may file a short form license application
39 as may be established by the commissioner pursuant to subdivision
40 (b) of this section.

(d) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(e) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means an initial ~~registration~~ *license* application, ~~registration renewal statement, preeffective amendment, posteffective amendment, or material modification of that license application,~~ and any other record created, generated, sent, communicated, received, or stored by electronic means, ~~and includes a record transmitted by means of facsimile machine or other telephone transceiving equipment.~~ *means.* “Electronic records” also includes, but *is* not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any ~~qualification, registration, order, permit, certificate, license, consent, or other authority, including, but not limited to, correspondence between the parties and the commissioner directly relating to the record.~~ *authority.*

(B) A financial statement, reports, ~~advertising, and correspondence between a party and the commissioner directly relating to the record.~~ *or advertising.*

(C) An order, ~~permit, certificate, license, consent, or other authority.~~

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, ~~qualification, registration, order, permit, certificate, license, consent, or other authority.~~

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a ~~hearing and correspondence between a party and the commissioner directly relating to the record.~~ *hearing.*

(G) A release, newsletter, interpretive opinion, determination, ~~specific ruling, and the correspondence relating to the record.~~ *or specific ruling.*

(H) *Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.*

1 (2) “Electronic signature” means an electronic sound, symbol,
2 or process attached to or logically associated with an electronic
3 record and executed or adopted by a person with the intent to sign
4 the electronic record.

5 (f) The Legislature finds and declares that the Department of
6 Business Oversight has continuously implemented methods to ~~file~~
7 ~~accept~~ records ~~electronically, including broker-dealer and~~
8 ~~investment adviser applications;~~ *filed electronically*, and is
9 encouraged to continue to expand its use of electronic filings to
10 the extent feasible, as budget, resources, and equipment are made
11 available to accomplish that goal.